

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

In re:

Jeffrey Allan Smith

Debtor.

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Case No.: 16-30838

Chapter 7

Judge Harry C. Dees Jr.

**MOTION FOR RELIEF FROM AUTOMATIC STAY AND ABANDONMENT OF
PROPERTY AND NOTICE OF OBJECTION DEADLINE WITH 30-DAY WAIVER
(FIRST MORTGAGE)**

The creditor, Nationstar Mortgage LLC , hereby moves the Court, pursuant to 11 U.S.C. § 362(d) and § 554, to lift the automatic stay and abandon from the estate the following real property:

604 Stanley Dr, Westville, IN 46391, (hereinafter the "Property").

Legal Description:

Property located in LaPorte County, Indiana: Lot 190 In Water Tower Phase 1, as per plat thereof, recorded in plat book 24. pages 48 and 49. in the office of the recorder of LaPorte county, Indiana.
APN#: 46-09-28-126-046.000-028

In support of the motion, the Creditor states the following:

1. Jeffrey Allan Smith (hereinafter "Debtor") filed a Chapter 7 case on April 19, 2016, (hereinafter the "Petition Date").
2. As of the Petition Date, the Creditor was the holder of a claim secured by the Property, more particularly described in the Mortgage, a copy of which is attached as Exhibit "A".

3. The above described Mortgage was given to secure a promissory note, (hereinafter the "Note"), dated June 23, 2009 and made payable to the Creditor in the original sum of \$158,342.00. A copy of the Note is attached hereto as Exhibit "B".

4. The Creditor perfected an interest in the Property, more particularly described in the Mortgage, recorded in LaPorte County Recordings Office on July 13, 2009. Evidence of perfection is attached as Exhibit "A".

5. Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase order, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements in support of right to seek a lift of the automatic stay and foreclose if necessary.

6. As of April 28, 2016, the outstanding principal of the Note was \$140,326.85 and the outstanding interest was \$1,929.51.

7. The Property is burdensome and/or of inconsequential value and benefit to the estate. Cause exists to lift the automatic stay under 11 U.S.C. § 362(d)(1) and/or 362(d)(2) for these reasons:

- a. Debtor has no equity in the Property. Creditor believes that the Property has a value of \$160,000.00 based on the Debtor's Schedule A, which is attached hereto as Exhibit "C". The balance on Creditor's first mortgage together with Debtor's claimed exemption in the amount of \$18,162 exceeds the value of the Property. Based upon the lack of equity in the Property, Creditor asserts that the Property is burdensome and/or of inconsequential value and benefit to the estate.
- b. The Creditor is not being adequately protected. Per the Note and Mortgage, payments are applied to the last month due. Based on the foregoing, Debtor has failed to make periodic payments to Creditor since March 1, 2016 through April 2016.

8. The Creditor hereby waives the right under 11 U.S.C. § 362(e) to a hearing on this motion within thirty (30) days of the date it is filed. Creditor, by counsel, further prays that the fourteen (14) day stay of the order imposed by Bankruptcy Rule 4001(a)(3) be waived.

PLEASE TAKE NOTICE THAT any objection must be filed with the Bankruptcy Clerk within **14 days** of the date of this notice. Those not required or not permitted to file electronically must deliver any objection by U.S. mail, courier, overnight/express mail or in person at:

South Bend
401 South Michigan Street
South Bend, IN 46601-2304

The objecting party must ensure delivery of the objection to the party filing the motion. If an objection is NOT timely filed, the requested relief and abandonment may be granted.

WHEREFORE, the Creditor moves the Court to enter an order lifting the automatic stay and abandoning the Property, and granting such other relief as appropriate.

Respectfully submitted,

/s/ Sarah E. Willms

Sarah E. Willms (28840-64)
Edward H. Cahill (0088985)
Adam B. Hall (0088234)
John R. Cummins (11532-10)
Daniel C. Wolters (0076521)
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P.O. Box 165028
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614-220-5611; Fax: 614-627-8181
Attorney for Creditor
The case attorney for this file is Sarah E. Willms.
Contact email is sew@manleydeas.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion for Relief from Automatic Stay and Abandonment of Property and Notice of Objection Deadline with 30-Day Waiver (First Mortgage) was served on the parties listed below via e-mail notification:

Nancy Gargula, One Michiana Square Building, Suite 555, 100 East Wayne Street, South Bend, IN 46601-2349, 574-236-8105

Rebecca Hoyt-Fischer, 401 E. Colfax, Suite 305, South Bend, IN 46601

Nicholas C. Catsadimas, Attorney for Jeffrey Allan Smith, 205 Jefferson Street, Valparaiso, IN 46383, catsadimaslaw@yahoo.com

The undersigned hereby certifies that a copy of the foregoing Motion for Relief from Automatic Stay and Abandonment of Property and Notice of Objection Deadline with 30-Day Waiver (First Mortgage) was served on all parties listed on the attached creditor matrix via regular U.S. Mail, postage prepaid on May 31, 2016.

/s/ Sarah E. Willms
